



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,496	09/08/2003	Paul T. Bender	02103-381001 / AABOSS16	9342
26162	7590	04/17/2009	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			SY, MARIANO ONG	
			ART UNIT	PAPER NUMBER
			3657	
			NOTIFICATION DATE	DELIVERY MODE
			04/17/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Office Action Summary	Application No. 10/657,496	Applicant(s) BENDER, PAUL T.	
	Examiner MARIANO SY	Art Unit 3657	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 18-34, 36-41, 44, 45 and 59-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18-34, 36-41, 44, 45 and 59-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>01/08/2009; 04/02/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed on January 8, 2009 has been received.

Claim Rejections - 35 USC § 102 / 103

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5-7, 9, 11-13, 15, 16, 18-22, 24-28, 30-32, 34, 36-41, 59-65, 67-69, 71, and 72 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Song et al. (US 7,087,342).

Song et al. disclosed, as shown in fig. 1-3, a vehicle suspension system comprising: electronic control module 4, actuator 6,8,10,12 comprising switch circuitry 14 powered by energy from movement of the actuator to passively damp the actuator, that is directly conveyed to the switch circuitry from electric terminals of the actuator wherein the electronic control module 4 which is part of the electric switch 14.

Art Unit: 3657

Song et al. was silent to disclose to passively damp the actuator during a failure of a power supply for providing power to the actuator.

Song et al. disclosed a passive damper that will be operational by itself even the power supply such as the battery fails. Song et al. also disclosed, as shown in fig. 3, several options for the switching circuit.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 14, 23, 29, 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Song et al.

Song et al. do not specifically disclose the use of solid-state electronics.

It would have been obvious to one of ordinary skill in the art to use solid-state electronics in the device of Song et al. since the use of solid-state electronics have many well known advantages such as lower power consumption, less cost to make, more reliable and more resistant to vibrations.

6. Claims 8, 33, and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Song et al. in view of De Puy (US 4,314,327).

Song et al. failed to disclose the supplemental circuit comprises a bipolar Royer oscillator.

Depuy teaches the use of Royer oscillator.

It would have been obvious to one of ordinary skill in the art to use Royer oscillators, which are well known, into the system of Song et al., as taught by DePuy, as merely a design choice of selecting a well known element to perform a specific function.

7. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Song et al. (US 7,087,342) in view of Miller (US 5,296,785).

Song et al. was silent to disclose the use of the actuator during a failure and wherein the electronic control module is powered by a capacitor.

Miller teaches the use of a fail-safe damping rate for the suspension system and the electronic control module powered by a capacitor.

It would have been obvious to one of ordinary skill in the art to provide the system of Song et al. with a fail-safe damping rate for the suspension system and the electronic control module powered by a capacitor, as taught by Miller, in order to avoid failure to the suspension system of the vehicle.

Response to Arguments

8. Examiner still maintains the rejections are proper. The electronic control module of Song et al. which is part of the switch circuitry wherein the switch circuitry

Art Unit: 3657

powered by energy from movement of the actuator to passively damp the actuator that is directly transmitted to the switch circuitry from the electric terminals of the actuator.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mariano Sy whose telephone number is 571-272-7126. The examiner can normally be reached on Mon.-Fri. from 8:30 A.M. to 2:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi, can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3657

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/MS/

April 9, 2009

/Bradley T King/

Primary Examiner, Art Unit 3657